



OFFICE of GOVERNMENT INFORMATION SERVICES

May 15, 2013 - Sent via email

Mr. Shawn Musgrave
shawn@muckrock.com

Re: Case No. 201300357
MN: CZ: CM

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION
8601 ADELPHI ROAD
COLLEGE PARK, MD
20740-6001

web: www.ogis.archives.gov
e-mail: ogis@nara.gov
phone: 202-741-5770
toll-free: 1-877-684-6448
fax: 202-741-5769

Dear Mr. Musgrave:

This responds to your request to the Office of Government Information Services (OGIS), which we received on February 26, 2013. You requested assistance regarding a Freedom of Information Act (FOIA) request that you made to the Department of Transportation's Federal Aviation Administration (FAA).

OGIS was created under the OPEN Government Act of 2007 to resolve FOIA disputes with the goal of avoiding litigation. Since opening our doors in September 2009, OGIS has received more than 1,200 cases and has successfully resolved most of them by facilitating discussions between FOIA requesters and Federal agencies. We offer mediation services as a nonbinding alternative to litigation. Participation in OGIS's mediation services is voluntary and the office has no binding authority. OGIS does not process FOIA requests or review FOIA appeals. OGIS cannot compel an agency to release records.

After opening a case, OGIS gathers information from the requester and the agency to learn more about the nature of the dispute. This process helps us gather necessary background information, assess whether the issues are appropriate for mediation, and determine the willingness of the parties to engage in our services. As part of our fact finding, we carefully reviewed your submission of information. We also contacted the agency to learn about your request.

We understand that you made a request for records pertaining to unmanned aerial systems (UAS) on January 7, 2013. On February 8, 2013, the FAA notified you that it is prohibited from answering any requests for the same records as those related to a lawsuit filed by the Electronic Frontier Foundation (EFF). In your letter to OGIS, you assert that the records at dispute in EFF's complaint are different than those you requested. The FAA did not provide you with appeal rights and you did not file an administrative appeal.

We contacted the FAA to learn more about your request. According to FAA FOIA Public Liaison Melanie Yohe, the interest in UAS records is enormous. Ms. Yohe explained that there are several dozen requests for UAS records in the queue ahead of yours. Though the FAA processes requests in a "first-in, first-out" basis, the lawsuit filed by EFF has forced the agency to process those records ahead of any other request. Ms. Yohe impressed upon us that these are large, complex requests for records which may require the FAA to consult with other agencies and



Mr. Shawn Musgrave

May 15, 2013

Page 2 of 2

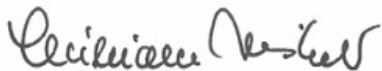
notify non-governmental entities that have submitted information pursuant to Executive Order 12600. Both of these processes can drastically increase the time it takes an agency to respond to a request. This delay is compounded by the fact that the FAA FOIA staff is required to take two furlough days per month until the end of the fiscal year.

Regarding your request no. 2013-1847, Ms. Yohe assured us that your request has not been rejected and remains in the FAA's queue. However, considering the length of the queue and the size and complexity of the requests ahead of yours, you may experience a lengthy delay in receiving a response to this request. Ms. Yohe explained that the nature of the UAS requests makes it extremely difficult to determine an estimated completion date for your request; however, she did advise that the agency expects to begin work on your request in a year. At that point, the agency should be able to provide a more accurate estimated completion date.

Ms Yohe also suggested that you may wish to consider filing FOIA requests for this information with the UAS proponent agencies. These agencies may hold records to which the FAA does not have access, in addition to those it does. You can find a list of these agencies on the FAA website at: http://www.faa.gov/about/initiatives/uas/media/COA_Sponsor_List_042412.pdf.

We hope that this information is helpful to you. Thank you for bringing this matter to OGIS; at this time there is no further action for us to take and we will consider this matter closed. If you have further questions or concerns about this matter at any point in the future, please feel free to contact us again and we will gladly reopen your case.

Sincerely,



Miriam Nisbet, Director
Office of Government Information Services

cc: Melanie Yohe, FAA FOIA Public Liaison

We appreciate your feedback. Please visit <https://www.surveymonkey.com/s/OGIS> to take a brief anonymous survey on the service you received from OGIS.